

AMENDED IN ASSEMBLY JUNE 15, 2006

AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE MAY 2, 2006

AMENDED IN SENATE APRIL 17, 2006

**SENATE BILL**

**No. 1483**

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**Introduced by Senator Alquist**

February 23, 2006

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An act to add and repeal Section 17441 of the Family Code, relating to child support.

LEGISLATIVE COUNSEL'S DIGEST

SB 1483, as amended, Alquist. Child support.

Existing law sets forth provisions by which a child support order may be revised by the court and specifies that a support order may not be modified or terminated as to an amount that accrued before the filing of a motion or an order to show cause to modify, except as specified.

This bill, until January 1, ~~2009~~ 2010, would establish, if approved by a resolution of a county board of supervisors, a child support pilot project for the Counties of Alameda, Fresno, Orange, San Mateo, and Santa Clara. The bill would authorize the court in those counties to modify a child support order when a local child support agency submits an application for modification of support that complies with specified provisions. The bill would specifically authorize a local child support agency to seek modification of an existing child support order ~~or to set an amount for support when the issue has been reserved if it determines~~ *has received income information for one or both*

*parents that indicates that an existing order is not in substantial conformity with state child support guidelines, as specified.*

~~The bill would also establish procedures by which a party may object to the proposed order. The bill would require each county that adopts the child support pilot project to work in conjunction with the local courts~~ *the Department of Child Support Services to develop and annually review necessary and appropriate forms for implementation of the expedited order modification process and would require the Department of Child Support Services to compile appropriate statistics to determine and the Judicial Council to conduct an evaluation of the effectiveness of this pilot project and report the results to the Governor and the Legislature by July 1, 2008 2009.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 17441 is added to the Family Code, to*  
 2     *read:*  
 3     *17441. (a) If a local child support agency is providing child*  
 4     *support services pursuant to Title IV-D of the Social Security Act*  
 5     *and pursuant to Section 17400, 17402, or 17404, the court may*  
 6     *modify a child support order when a local child support agency*  
 7     *submits an application for modification of support in compliance*  
 8     *with this section. An order issued pursuant to this section shall*  
 9     *be known as an expedited modification order.*  
 10    *(b) The local child support agency may seek modification of*  
 11    *an existing child support order under this section if it has*  
 12    *received income information for one or both of the parents that*  
 13    *indicates that an existing order is not in substantial conformity*  
 14    *with state child support guidelines and the case meets criteria*  
 15    *established by the Department of Child Support Services. In*  
 16    *developing the criteria for cases to be eligible for expedited*  
 17    *modification under this section, the Department of Child Support*  
 18    *Services shall consult with the Child Support Directors*  
 19    *Association, the Judicial Council and representatives of the local*  
 20    *child support agencies, child support commissioners, and family*  
 21    *law facilitators from the counties that are designated as the pilot*  
 22    *counties in subdivision (i). The criteria shall be developed within*  
 23    *six months of the enactment of this act and shall be annually*

1 reviewed by the Department of Child Support Services in  
2 consultation with the stakeholders identified in this section.

3 (c) To establish an expedited modification order, the local  
4 child support agency shall serve an application to modify child  
5 support, child support guideline worksheet, proposed order of  
6 support, objection to modification and request for hearing, and  
7 instructions on how to complete the objection to modification and  
8 request for hearing on both parents. The child support guideline  
9 worksheet shall include a simple to read statement of the  
10 financial and visitation factors used to determine the guideline  
11 level of child support and a description of the sources of  
12 information used to determine the financial and visitation  
13 factors. Service of the application and supporting documents may  
14 be made as specified in the Code of Civil Procedure. Service by  
15 mail shall be to a verified active address on file with the local  
16 child support agency.

17 (d) A party may object to the proposed order and request a  
18 hearing by serving the local child support agency, within 30 days  
19 of receipt of the application to modify child support, with a  
20 completed objection to modification and request for hearing.

21 (e) Upon receipt of an objection, the local child support  
22 agency shall file the objection together with the application to  
23 modify support, the proposed order, and the child support  
24 guideline worksheet with the court. The court shall set the matter  
25 for hearing. The local child support agency shall give each party  
26 30 days written notice of the hearing date. At the hearing on the  
27 objection to the proposed order, the court may enter a child  
28 support order that is in accordance with the state child support  
29 guideline.

30 (f) If the local child support agency does not receive an  
31 objection to modification and request for a hearing within 40  
32 days of mailing the application, it may file the proposed order,  
33 the application to modify child support, and the child support  
34 guideline worksheet with the court, together with a proof of  
35 service for the parties and a statement verifying that the local  
36 child support agency has not received an objection to the  
37 proposed order. The court may issue a final order of  
38 modification upon receipt of these documents without further  
39 hearing or evidence. However, no final order shall be issued  
40 unless the local child support agency certifies that service was

1 *made to an address verified as current and active, within the last*  
2 *90 days, through a reliable government database. The local child*  
3 *support agency shall serve the final order upon the parties by*  
4 *mail along with forms and information necessary to set aside the*  
5 *order.*

6 *(g) (1) Any order modified pursuant to subdivision (e) may be*  
7 *made retroactive to the date of filing of the objection, application*  
8 *to modify support, proposed order, and child support guideline*  
9 *worksheet.*

10 *(2) Except for good cause shown, any order modified pursuant*  
11 *to subdivision (f) shall be effective on the first day of the month*  
12 *following the date of service of the application and supporting*  
13 *documents as provided in the Code of Civil Procedure.*

14 *(h) Notwithstanding any other law, the local child support*  
15 *agency or either parent may file a motion to set aside an*  
16 *expedited modification of support established under subdivision*  
17 *(f) within one year of the first collection of support that occurs*  
18 *after modification of the order. The one-year time period from*  
19 *the first collection shall run from the date that the local child*  
20 *support agency receives the collection. If the expedited*  
21 *modification order was for zero support, the one-year period*  
22 *shall run from the date that the party filing the motion to set*  
23 *aside the support order received notice of the modified order.*  
24 *Upon the request of either parent made within the timeframes set*  
25 *forth in this subdivision, the local child support agency shall file*  
26 *a motion to set aside the order. The court retains the jurisdiction*  
27 *to set support at the appropriate amount back to the*  
28 *commencement date of the vacated order in the event a set aside*  
29 *is granted.*

30 *(i) This section shall apply only to the counties of Alameda,*  
31 *Fresno, Orange, San Mateo, and Santa Clara as a pilot project.*  
32 *The Department of Child Support Services and the Judicial*  
33 *Council shall conduct an evaluation of the effectiveness of this*  
34 *pilot project and shall report the results of the pilot project to the*  
35 *Governor and the Legislature on or before July 1, 2009.*

36 *(j) The Department of Child Support Services shall develop*  
37 *forms to implement this section in consultation with the Judicial*  
38 *Council, representatives of the Child Support Directors*  
39 *Association, and the local child support agencies, child support*  
40 *commissioners, and family law facilitators from the counties that*

1 *are designated as the pilot counties in subdivision (i). The forms*  
2 *shall be developed within six months of the enactment of this act*  
3 *and shall be annually reviewed by the Department of Child*  
4 *Support Services in consultation with the stakeholders identified*  
5 *in this section.*

6 *(k) This section shall not be operative in a county described in*  
7 *subdivision (i) until the county board of supervisors adopts a*  
8 *resolution that makes this section applicable in that county.*

9 *(l) This section shall remain in effect only until January 1,*  
10 *2010, and as of that date is repealed, unless a later enacted*  
11 *statute, that is enacted before January 1, 2010, deletes or extends*  
12 *that date.*

13 ~~SECTION 1. Section 17441 is added to the Family Code, to~~  
14 ~~read:~~

15 ~~17441. (a) If a local child support agency is providing child~~  
16 ~~support services pursuant to Title IV-D of the Social Security Act~~  
17 ~~and pursuant to Section 17400, 17402, or 17404, the court may~~  
18 ~~modify a child support order when a local child support agency~~  
19 ~~submits an application for modification of support in compliance~~  
20 ~~with this section. An order issued pursuant to this section shall be~~  
21 ~~known as an expedited modification order.~~

22 ~~(b) The local child support agency may seek modification of~~  
23 ~~an existing child support order or to set an amount for support~~  
24 ~~when the issue has been reserved if it determines that an existing~~  
25 ~~order is not in substantial conformity with state child support~~  
26 ~~guidelines. An order is not in substantial compliance when a~~  
27 ~~guideline calculation on the present factors results in a change of~~  
28 ~~20 percent or fifty dollars (\$50) to the existing order, whichever~~  
29 ~~is less.~~

30 ~~(c) To establish an expedited modification order the local child~~  
31 ~~support agency shall serve an application to modify child~~  
32 ~~support, child support guideline worksheet, proposed order of~~  
33 ~~support, objection to modification and request for hearing, and~~  
34 ~~objection to support modification instructions on both parents.~~  
35 ~~The child support guideline worksheet shall include a simple to~~  
36 ~~read statement of the financial and visitation factors used to~~  
37 ~~determine the guideline level of child support. Service of the~~  
38 ~~application and supporting documents may be made as specified~~  
39 ~~in the Code of Civil Procedure.~~

~~(d) A party may object to the proposed order and request a hearing by serving the local child support agency, within 30 days of receipt of the application to modify child support, with all of the following: (1) an objection to modification and request for hearing, (2) a completed income and expense declaration, and (3) either the three most recent pay stubs or the most recent income tax return. The objection shall include a declaration that identifies the reason why the proposed order is not appropriate.~~

~~(e) Upon receipt of an objection, the local child support agency shall file the objection with the court. The court shall set the matter for hearing. The local child support agency shall give each party 30 days' written notice of the hearing date. At the hearing on the objection to the proposed order, the court may enter a child support order that is in accordance with the state child support guideline.~~

~~(f) If the local child support agency does not receive an objection and request for hearing within 30 days of mailing the application, it may file the proposed order with the court, along with a declaration in support of final order, that shall include a statement verifying that the local child support agency has personally served or mailed service according to the requirements of this section, and the local child support agency has not received an objection to the proposed order. The court may issue a final order of modification upon receipt of these documents without further hearing or evidence.~~

~~(g) Except for good cause shown, any order modified pursuant to the terms of this section shall be effective on the first day of the month following the date service of the application and supporting documents is complete, as provided in the Code of Civil Procedure.~~

~~(h) This section shall apply only to the Counties of Alameda, Fresno, Orange, San Mateo, and Santa Clara as a pilot project. The Department of Child Support Services shall compile appropriate statistics to determine the effectiveness of this pilot project and shall report the results of the pilot project to the Governor and the Legislature on or before July 1, 2008.~~

~~(i) Each county shall work in conjunction with the local courts to develop necessary and appropriate forms for implementation of the expedited order modification process.~~

1     ~~(j) This section shall not be operative in a county described in~~  
2     ~~subdivision (h) until the county board of supervisors adopts a~~  
3     ~~resolution that makes this section applicable in that county.~~

4     ~~(k) This section shall remain in effect only until January 1,~~  
5     ~~2009, and as of that date is repealed, unless a later enacted~~  
6     ~~statute, that is enacted before January 1, 2009, deletes or extends~~  
7     ~~that date.~~

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